IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4035 OF 2006

Sou. Yamunabai Shivaji Bhambare ..Petitioner

Vs.

Rafiq Bashir Shaikh and ors. ..Respondents

Mr. A.B. Tajane for petitioner.

CORAM: B.H. MARLAPALLE, J.

Date : July 17, 2006.

P.C.:

1. Heard Mr. Tajane the learned counsel for the petitioner who is the respondent-opponent in Civil Appeal No.33 of 2006. In the said appeal the learned Judge of the Lower Appellate Court has allowed an application for temporary injunction filed at Exh.6 by the impugned order dated 21/4/2006. The Lower Appellate Court noted that during the pendency of the suit an order of temporary injunction had operated all along and as soon as the suit was dismissed, the defendant caused obstructions to the common way on which the plaintiff is claiming right of easement, by erecting angles and thus defeating the appeal itself. The view taken by the Lower Appellate Court to

maintain status quo ante cannot be held to be perverse or grossly erroneous so as to interfere in a petition under Article 227 of the Constitution.

2. Hence the petition is rejected summarily and it is directed that Civil Appeal No.33 of 2006 be heard and decided on its own merits as expeditiously as possible and preferably by 31st March, 2007.

(B.H. Marlapalle,J.)